IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

SUIT NO. 182 OF 1982.

Metal Scrap Trade Corp. Ltd. .. Plaintiff
V/s.
TPS Shipping Co.P.Ltd & 2 ors ... Defendants

Shri S. Rego i/b Crawford Bayley & Co. for the Plaintiff.

None for the defendants.

CORAM : V.C.DAGA, J.

DATED : 19.1.2006.

P.C. :

. In this suit, issues were settled by this Court on 3.10.2003. On the same day, parties were directed to file affidavit of documents, list of witnesses and affidavit of evidence by 4.12.2003. On 16.10.2003, when this matter was listed, Counsel for the plaintiffs reported no instructions. Even defendants were not present and they did not file documents, list of witnessess and/or affidavit of evidence which they were supposed to file.

. Since time to comply with the order dated 3.10.2003 was available till 4.12.2003, nobody had appeared on behalf of the defendants with the result this matter was adjourned to 11.12.2003 and plaintiff was again directed to file affidavit of documents and affidavit of evidence, if any, so as

to enable the defendant to cross-examine the plaintiff.

. This suit was again adjourned to 7.1.2004. On that day also, nobody had appeared on behalf of the defendant. However, advocate for the plaintiff had sought time to file affidavit and list of witnesses till 22.1.2004 which was granted. But plaintiff did not file any document or affidavit in support thereof.

. Learned counsel for the plaintiff submits that inspite of letters addressed by him to the plaintiff dated 4.12.2003, 12.12.2003, followed by letter dated 13.1.2004, he did not get instructions from the plaintiff. Copies of letters dated 4.12.2003, 12.12.2003, 13.1.2004 are placed on record.

. Today, when this suit was called out for recording evidence, plaintiff is absent. None of the witnesses of the plaintiff is presen. No affidavit of evidence is on record.

. Learned Counsel for the plaintiff is not in a position to proceed with the evidence. Learned Counsel for the plaintiff prayed for adjournment but no justifiable ground for adjournment has been made

out. Prayer for adjournment is, therefore, rejected.

. At this stage, Counsel for the plaintiff sought discharge from the case. However, in absence of compliance of the provisions of Advocates Act, advocate cannot be allowed to take discharge in this manner. Prayer made is, thus, rejected.

. In the above view of the matter, I have no option but to dismiss the suit for want of evidence in support of suit claim. Suit stands dismissed with no order as to costs. Decree be drawn accordingly.

(V.C.DAGA,J.)